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September 11, 2020

Via ECF

Hon. Katherine Polk Failla
United States District Court
Southern District of New York
40 Foley Square, Rm 415
New York, NY 10007

MEMO ENDORSED

Re: H.D. individually and on behalf of her child
E.D. a minor
Joint letter pursuant to ECF Doc #9, dated July 15, 2020

Your Honor:

Please be advised that this firm represents the Plaintiffs in the above-referenced action. I write on behalf of the Plaintiffs only pursuant to the Court's Order dated July 15, 2020 requiring the parties addressing the issues outlined by the Court in its Order (ECF Doc No. 5). Defendant's counsel and I attempted to write a joint letter but we reached an impasse.

For the reasons set forth below, I respectfully request a two-month adjournment of the conference scheduled for September 18, 2020.

Plaintiffs bring this action seeking to recover attorney's fees incurred in the course of administrative proceedings brought under the Individuals with Disabilities Education Improvement Act, 20 U.S.C. §§ 1400, *et seq.* and this federal action. Plaintiffs filed the complaint on March 12, 2020 (ECF No.: 1). On January 22, 2020 the Court granted Defendant's request to extend time to respond to the Complaint to March 31, 2020 (ECF Doc. 5). On May 8, 2020 Defendant filed a Motion to requesting an extension to respond to the Complaint (ECF. Doc. 6) The Court granted Defendant's request for an extension of the answer deadline to July 15, 2020 (ECF Doc. No. 7). On July 15, 2020 Defendant filed a Motion to requesting an additional extension to respond to the Complaint (ECF. Doc. 8) noting that

The requested extension should provide Defendant with sufficient time to assign this matter to an attorney who will become acquainted with the record, and then work toward settlement. The Complaint states that counsel billed \$20,174.00 for work performed on the underlying administrative proceeding, and \$1,500.00 for work on this federal action (ECF 1).

Id. The Court granted Defendant's request for an extension of the answer deadline to August 12, 2020 (ECF Doc. No. 9), and Defendant filed an answer on August 17, 2020 (ECF Doc. No. 11).

The Complaint seeks \$20,174.50 for work on the administrative proceeding and \$1,500.00 (with work continuing and final fees to be determined) for work on the federal action.

Plaintiffs contend that subject matter jurisdiction is present pursuant to 28 U.S.C. § 1331, and venue is proper pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2) and Defendant does not dispute the Court's jurisdiction and venue.

The Plaintiff intends to provide relevant billing records no later than September 21, 2020 so that the parties can engage in settlement negotiations. If settlement negotiations are unsuccessful, the matter will be resolved by dispositive motion. Specifically, Plaintiffs will file a motion for attorneys' fees and costs. The Plaintiff respectfully propose the following briefing schedule:

- Plaintiffs' motion shall be due by November 30, 2020;
- Defendant's opposition shall be due by December 30, 2020; and
- Plaintiffs' reply, if any, shall be due by January 13, 2021.

- (1) The Plaintiff's position is that no discovery is needed to resolve this matter.
- (2) Plaintiff will provide to Defendant the attorney billing records, and resumes for any attorney or staff who billed time for which fees are claimed on or before September 21, 2020.
- (3) A trial is not needed to resolve this matter.

Respectfully submitted,

/s
Irina Roller
Attorney for the Plaintiffs

Cc: Martin Bowe, Esq.
New York City Law Department
Attorneys for Defendants
Via ECF

The Court is in receipt of the parties' letters, both seeking an adjournment of the initial pretrial conference scheduled for next week and some form of a stay in this case. (Dkt. #12-13). Based on the parties' representations, the Court ORDERS the following:

- The initial pretrial conference scheduled for September 18, 2020, is ADJOURNED *sine die*;
- Plaintiff will provide the billing records to Defendant on or before September 25, 2020; and
- Assuming the parties are unable to come to a resolution, Plaintiff's motion will be due on or before December 11, 2020; Defendant's opposition will be due on or before January 8, 2021; and Plaintiff's reply will be due on or before January 22, 2021.

Dated: September 11, 2020
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE